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MINISTRY OF INFORMATION AND BROADCASTING —

CENTRAL BOARD FOR FILM CERTIFICATION

ESTIMATES COMMITTEE 1991-92

TENTH LOK SABHA

LOK SABHA SECRETARIAT
NEW DELHI

THIRD REPORT
ESTIMATES COMMITTEE
(1991-92)

(TENTH LOK SABHA)

MINISTRY OF INFORMATION AND BROADCASTING— CENTRAL BOARD FOR FILM CERTIFICATION

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LIST OF MEMBERS OF THE ESTIMATES COMMITTEE
(1991-92)

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3. Shri Mumtaz Ansari
4. Shri A. Charles
5. Shri Somjibhai Damor
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SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri K.K. Sharma — *Joint Secretary*
3. Shri B.B. Pandit — *Director*

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*Resigned from the Committee w.e.f. 11.12.91

INTRODUCTION

I, Chairman of Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Third Report on the Ministry of Information and Broadcasting—Central Board for Film Certification.

2. The Committee undertook the examination of the various aspects of film certification mindful of the fact that societal norms are dynamic in their nature and that with the advent of modern information technology censorship of films including video films as a concept has assumed added significance.

3. During their examination of the subject, the Committee held informal consultations with the representatives of various bodies of Film Producers at Madras and Bombay including Film Producers Federation of India. The Committee wish to express their thanks to the various organizations of Film Producers for sharing their experiences and views with the Committee. The Committee also considered the replies given by the Ministry of Information and Broadcasting to a detailed questionnaire issued on the subject. Whereafter the Committee took evidence of the representatives of the Ministry of Information and Broadcasting on 20.9.1990. They wish to express their thanks to the officers of the Ministry who placed before them detailed written notes on the subject and furnished whatever information the Committee desired in connection with the examination of the subject. The Committee also appreciate the candour displayed both by the film producers representatives and the officials in their interaction with the Committee.

4. The Report was considered and adopted by the Committee on 11.10.1991.

5. In their Report the Committee have viewed with concern the position taken by the Ministry of Information and Broadcasting that as of now no clear perception of film censorship and its relevance today exists in the Ministry. Obviously, not sufficient study on the subject has been attempted so far. A comprehensive sociological study of film censorship in relation to emerging social realities has therefore been suggested in the report. The Committee have in this context also underlined the need to give urgent attention to the recommendation of National Film Policy and called upon the Government to formulate a clear and cogent policy in regard to 'Film Censorship.'

6. Having taken note of the possibility of foreign films depicting more violence in comparison to Indian films the Committee in their report have

called for the acceptance of the view that audience for both the types of the films being same, yardstick for judging their exhibitability ought not to be dissimilar. Obviously, the relevant guidelines need to be suitably modified to ensure that, like Indian films, foreign films are also certified in such a manner as to conform to contemporary social mores of the targetted audience.

7. The Committee are concerned to note that the Ministry of Information and Broadcasting as also the Board for Film Certification find themselves helpless in completely curbing exhibition of scenes depicting unjustified violence, cruelty, obscenity, alchoholism, drug addiction disrespect to judiciary and women in films despite existence of detailed guidelines and circulars issued to the Board. That this state of affairs largely due to rampant interpolation of films by irresponsible film producers as also due to the existence of video piracy and cable TV circuits has persuaded the Committee in recommending that suitable provisions may be incorporated in the Cinematograph Act to make directors, technicians and exhibitors and also the actors and actresses responsible for interpolation of scenes/vulgar depiction disallowed during certification. To check the circulation of pirated or interpolated cassettes the Committee desire suitable changes in the statute.

8. In the context of lack of uniformity in application of guidelines for certifying films at different regions the Committee have welcomed the present practice of holding workshops where cut portions of various other regional centres of CBFC are being shown to panel members as also the intention of the Ministry of Information & Broadcasting to impart training to all new members of various Advisory Panels attached to the regional centres of CBFC.

9. The Committee are unable to understand the rationale which, for a brief period, had persuaded the Government to take the Board out of the Ministry of Information and Broadcasting. They however would like to be assured that CBFC will continue to be placed under the Ministry of Information and Broadcasting and that no further *ad hoc* changes will be made.

10. Under the present dispensation CBFC, even though on paper, a statutory body set up under a distinct legislation, is virtually designed to function as an agency subordinate to the Government. In this context, the Committee have particularly noted the fact that under the law the Board can neither appoint the members of the advisory panel at the regional centres nor its officers at Group 'A' level. The Board also cannot suspend a certificate issued by itself to a film in the event of violation of the conditions to such certification. The Committee have come to the considered opinion that there is substantial need, as also the scope, for providing greater functional autonomy to CBFC. The Committee have therefore recommended that the Chairman and the members of the CBFC

may be appointed from amongst the public figures known for their cultural eminence and understanding of the film media and that the Chairman of the Board should be appointed on a full time basis.

11. The Committee would like to express their thanks to the Estimates Committee (1990-91) for taking evidence on the subject and obtaining valuable information thereon. The composition of the Committee (1990-91) is given at Annexure V.

12. For facility of reference the recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in consolidated form in Appendix of the Report.

NEW DELHI;
February 14, 1992
Magha 25, 1913 (S)

MANORANJAN BHAKTA,
Chairman,
Estimates Committee.

CHAPTER I

INTRODUCTORY

A. Film Censorship in India

1. 1 During evidence before the Committee the Secretary to Government of India, Ministry of Information and Broadcasting stated:—

> "The Central Board of Film Certification functions under a law which is called the Cinematograph Act of 1952 and under the Cinematograph Certification Rules which were promulgated in 1983."

He elucidated further:—

> "In terms of law, as it stands today the term 'film' is not only the cinematorgraphic film that can be displayed in a movie theatre but it also includes video reels."

Background

1.2 The Ministry in a background note stated that film censorship in India was introduced in 1920 after the enactment of Cinematograph Act, 1918. Consequently separate Boards of Film Censors were set up at Bombay, Madras, Calcutta and Rangoon. Two amendments were made to the Cinematograph Act, 1918 in 1949. One introduced two categories of certificates *viz.* 'A' for exhibition of films to only those persons above the age of 18 years and 'U' for universal exhibition. The second enactment consolidated the different Censor Boards under a single Central Board of Film Censors, thus, for the first time, bringing 'film censorship' under central control.

B. *Censorship or Self Regulation*

1.3 Explaining the dialectics of film censorship the Ministry in a written note to the Committee stated that society is a nebulous concept. Cinema industry is an organised body. It is axiomatic, therefore, that the initiative to break the vicious and unhealthy things must emanate from the industry. Cinema and society have a tremendous impact on each other. If this mutual impact were to occur in a direction which is healthy, the two could become the cause, as well as the effect of building sound health of each other. On the other hand, if the direction tended to take to unhealthy lines, the two could become the destroyers of each other.

1.4 Asked if film censorship was at all necessary, Secretary, Information & Broadcasting, during evidence stated:—

> "There is also a school of thought which, off and on, says that censor should just not be there at all and that the society should find some other way of dealing with this problem. These are always issues which are constantly debated in a vital evolving developing society. I think, the best we can do is to keep track of what is the point of view expressed in various places and augment the Board in such a manner as they can be constantly sensitive to the changing social needs."

1.5 Asked whether film censorship as it is practised today was at all possible in the wake of burgeoning TV viewership, video boom and the onset of cable TV and why a rationally drawn guidelines should not be self-imposed by the film producers body, as suggested by various film bodies which held discussion with a Study Group of the Committee at Madras, should not be encouraged. The Ministry stated "it will be a folly to even hope for self-imposed guidelines by the film industry". Explaining its viewpoint the Ministry further stated:—

> "We shall then go the way of some of the Western countries and give only ratings based on objectionable material the film contains. These countries make no attempt to stop objectionable material from being shown to the society. Also, illegal trade in such things has been going on since time immemorial. But, man's wisdom has never considered it proper to give it legal status. It will be desirable for us to learn from the folly of the West."

1.6 The Ministry outlined its approach to film censorship as follows:—

> "The suggestion that it is time for guidelines to be made more rational perhaps amounts to saying that greater promiscuity should be legally permissible on the screen. Despite the present constraint, what slips out legally as well as illegally. That it has been doing sufficient damage to society has caused uproar among the people, both inside and outside Parliament. It would, therefore be highly injudicious to even conceive of liberalisation."

1.7 This thinking was reinforced by the Ministry by pointing out that Indian society had outlasted, the course of civilization over the centuries because of standards and values having been anchored in truth and that such values were perennial, universal and absolute.

National Film Policy Group

1.8 The Committee have learnt that the National Film Policy Group has recommended the formation of a National Film Council in order to set up standards by persuasion if possible, by compulsion, if necessary, at pre-production stage of the films and also to regulate the industry.

1.9 Asked whether the Government has attempted to implement the recommendation of the National Film Policy, the Secretary, Ministry of Information & Broadcasting revealed during oral evidence:

> "At the moment, there is no final view taken by the Ministry. We had an interim view *viz.* that it would be much better if the kind of system that we have in many other countries can be adopted here. That very effective self restraint system could be somehow introduced in this country. We have been feeling that whereas laws have their concomitant problems of enforcement, we have an adversarial relation with producers. To some extent, we have succeeded. For example, the industry has set up a self restraint system in the context of hoardings and film publicity material."

1.10 Asked whether there is a need for some sort of a study to be initiated by the Ministry to gauge the social change which can give certain reference to the CBFC to ensure that censorship is responsive to social change, the Secretary of the Ministry stated during evidence:—

> "That has never been done. I am aware of one study, which is by Indian Institute of Mass Communication conducted at our behest in 1980s or may be late 70s. I am also aware that some studies have been conducted through the institute concerned with social sciences. I cannot off-hand list them out. If I could get the same, I will send it to you. But in principle, what you have said is right i.e. no particular scientific, sociological study has been sponsored towards gauging the social change."

Conclusion

1.11 The Cinematograph Act, 1919 which was promulgated in 1920 introduced film censorship in India. Given the structure of the then British-India separate Film Censorship Boards existed in different provinces. In 1949, censorship became a central subject and has continued to be so. A set of rules were framed under the Cinematographic Act, 1983 for regulating censorship of films. The dialectical nature of the relations between cinema and society is exiomatic. There is a definite body of opinion in the society which feels that censorship as such can be substituted with a self-regulatory mechanism within the film industry.

1.12 It has been argued that societal norms are dynamic in their nature and therefore, censorship of films including video films ought to be in step with the changing social needs. The need for reviewing censorship as a concept has become all the more acute with the advent of modern

information technology such as satellite communication, cable TV and Video filming etc.

1.13 The Ministry of Information and Broadcasting have stated that Indian films are 'perennial, universal and absolute' and ought to be reference point for regulation of Film Certification norms.

1.14 The Ministry considers it desirable to learn from the 'folly of the West' where, according to them, no attempt is made to stop objectionable material from being shown to the society. They, therefore, consider it 'highly injudicious to even conceive of liberalisation' which, they apprehend, will lead to greater and legally permissible promiscuity on the screen. Even though such promiscuity on screen escapes the law, they contend that it cannot be accorded respectability by legalising it. At the same time the Ministry have also conceded that an effective 'self-restraint system' could be introduced as laws have their concomitant problem of enforcement as the relationship with the film producers becomes adversarial. In this context it is significant to note that the recommendation of the National Film Policy Group for the formation of a National Film Council to set up standards at pre-production stage of film and to regulate industry are yet to be accepted by the Government. The Ministry have also admitted that no particular scientific or sociological study has been sponsored for gauging social changes that have come about ever since films have become an important medium of public communication.

1.15 From the positions taken by the Ministry of Information and Broadcasting in its written notes to the Committee it would appear that as of now no clear perception of film censorship and its relevance today exists in the Ministry. Obviously not sufficient study of this subject has been attempted so far. The Committee is inclined to accept the view that censorship ought to be in step with changing social realities which need not necessarily lead to greater promiscuity on screen or destruction of age-old values of India.

Recommendations

1.16(a) To institute a comprehensive sociological study of film censorship in relation to emerging social realities.

(b) Urgent attention may be given to the recommendation of National Film Policy Group.

(c) The Ministry ought to formulate a clear and cogent policy in regard to 'Film Censorship' after taking into account the recommendations of the National Film Policy Group.

CHAPTER II

FILM CERTIFICATION

A. Objectives and Guidelines

2.1 During evidence before the Committee the Secretary Information & Broadcasting defined 'film certification' as follows:—

> "Certification is the end product of a process of previewing of films and it includes the imposition of censorship and also a decision either to not allow a particular film for public viewing or to allow it for public viewing with certain deletions, cuts and alterations. Censorship is a preliminary process in the certification of the film."

2.2 According to the Ministry of Information and Broadcasting, the criteria of approval of various categories of films by CBFC are as follows:—

(a) If the Board, after examination of the film in the light of the guidelines, is of the opinon that the film is suitable for unrestricted public exhibition 'U' certificate is granted to it.

(b) If the Board, having regard to the nature, content and theme of the film is of the opinion that it is necessary to caution the parents or guardian of a child below the age of 12 years about the desirability of allowing their child so see the film, it certifies it with a 'UA' certificate.

(c) Films that meet the guidelines issued by Central Government under section 5 B(2) of the Act but are considered unsuitable for exhibition to non-adults are certified for exhibition to adult audience only and awarded an 'A' certificate.

(d) If a film is considered fit for exhibition restricted to members of any profession or any class or persons, having regard to the nature, content and theme, the Board issues an 'S' certificate to the film.

Cinematograph Act

2.3 The Cinematograph Act, 1952 apart from including provisions relating to constitution and functioning of the Central Board of Film Certification and the procedures to be followed in respect of appeals against its decisions the power of Central Government over the Board also lays down the guidelines for certification of the films. The main provisions of the Act directly relating to certification of films viz. Section 5(A) and 5(B) are reproduced in Appendix A.

2.4 Section 5B (1) underlines the principles for certification of films. It stipulates that a film, or any part of it, shall not be certified for public exhibition if it is against the interests of sovereignty and intergrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or involves defamation or contempt of court or is likely to incite the commission of any offence.

Objectives

2.5 In his evidence before the Committee Secretary, Information and Broadcasting explained the objects of cetification as follows:—

> "The objective of certification is to enable a preview of all materials of this nature of films by an organisation so as to enable that the people in this country do not get exposed to psychologically damaging materials. What is psychologically damaging has been enumerated in the guidelines which have been framed under the provisions of the law and in certification functions."

2.6 The guidelines issued by Government under Section 5(B) (2) of the Act provide that the objectives of film certification will be to ensure that:

(i) the medium of film remains responsible and sensitive to the values and standards of society;

(ii) artistic expression and creative freedom are not unduly curbed; and

(iii) Censorship is responsive to social change.

The Ministry of Information and Broadcasting has issued various notifications* from time to time containing therein the guidelines for

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* Notification No. F5/5/77-FC dated the 7th January, 1978 read with Notification No. F5/5/77-FC dated 27th January, 1979, Notification No. 805/282-FC dated 7th May, 1983.

certification of films and the latest set of guidelines were issued *vide* Department of Culture Notification No. 805/4/89-FC dated 11th August, 1989, in pursuance of the above objective. The detailed existing guidelines are at Appendix B.

APPENDIX B

Guidelines for Censorship of Films

2.7 The Board of Film Certification shall ensure that:—

(i) anti-social activities such as violence are not glorified or justified;

(ii) the modus operandi or criminals or other visuals or words likely to incite the commission of any offence are not depicted;

(iii) scenes showing involvement of children in violence, either as victims or as perpetrators, or showing child abuse or abuse of physically and mentally handicapped persons are not presented in a manner which is needlessly prolonged or exploitative in nature;

(iiia) pointless or avoidable scenes if violence, cruelty and horror are not shown;

(iiib) scenes which have the effect of justifying or glorifying drinking and drug addiction are not shown;

(iv) human sensibilities are not offended by vulgarity, obscenity and depravity;

(iva) visuals or words depicting women in ignoble servility to man or glorifying such servility as a praiseworthy quality in women are not presented;

(ivb) scenes involving sexual violence against women, like attempt to rape, gang rape, murder or any other form of molestation, or scene of a similar nature shall be avoided and if, for any reason, such scenes are found to be inevitable for the sequence of a theme, they shall be properly scrutinised so as to ensure that they do not create any adverse impression on the viewers and the duration of such scenes shall be reduced to the shortest span;

(v) visuals or words contemptuous or racial, religious or other groups are not presented;

(v-a) visuals or words which promote communal obscurantist, anti-scientific and anti-national attitudes are not presented;

(vi) the sovereignty and integrity of India is not questioned;

(vii) the security of the State is not jeopardised or endangered;

(viii) friendly relations with foreign States are not strained;

(ix) public order is not endangered;

(x) visuals or words involving defamation or contempt of court are not presented.

2.8 The Board of Film Certification shall also ensure that the film:—

(i) is judged in its entirety from the point of view of its overall impact; and

(ii) is examined in the light of contemporary standards of the country and the people to which the film relates.

2.9 Films that meet the above mentioned criteria but are considered unsuitable for exhibition to non-adults shall be certified for exhibition to adult audiences only.

B. *Application of Guidelines*

(a) *Indian Films*

2.10 Asked to state the checks being applied by CBFC in not permitting screening of those films which are objectionable in terms of guidelines, the Ministry of Information & Broadcasting has stated that each film is examined by various Committees in the light of the guidelines issued by the Government having regard to the theme, treatment and presentation of the film. There is no guideline prohibiting the exhibition, *per se* of scenes of violence, cruelty, horror and indecency in the films. The guidelines, *inter alia* prescribe that anti-social activities such as violence are not glorified or justified, pointless or avoidable scenes of violence, cruelty and

horror are not shown and human sensibilities are not offended by vulgarity, obscenity and depravity. Apart from the qualifications the present procedures also permit reduction of such scenes to tone down their impact. Exhibition of films comes within the domain of freedom of expression and the restrictions that are put by the Certification authorities have to be reasonable, while keeping, of course the public interest in view.

2.11 On being pointed out by the Committee that films which glorify violence, crime, alcoholism, drug addiction, vulgarity and showing disrespect to judiciary, the rule of law, national honour and national integrity, are being exhibited eventhough the guidelines do not permit this. The Ministry of Information and Broadcasting stated that the themes often are such that the film producers take up stories where in the guise of punishing the evil mafia dons or the corrupt Government functionaries, heroes and heroines in their personal vendetta, are allowed to take the law in their hands and murder evil doers. Later on the hero or heroine who has glorified the violence during the bulk of the film is shown being arrested or subjected to a trial etc., to fulfil the requirement that violence and crime is not glorified.

2.12 The Ministry admitted that in some films there are scenes undermining the sanctity of the Court and that it was possible that such scenes were permitted as most of the panel members who examine films, and recommend their certification, do not know what constitutes contempt of Court. A circular was stated to have been issued by the Board to inform the panel members as to what constitutes contempt of Court and they are stated to have been advised that if they happen to be in doubt whether a scene constitutes contempt of Court or not they can induct a judge or a senior Government Advocate to give his view as an expert.

2.13 As regards national honour, neither the constitution nor the guidelines, that draw their validity from Article 19(2) of the Constitution, prescribe any provision by which anything impinging on the national honour or the national symbols can be objected to by the Board. Similarly there is no specific provision to curb contempt for the laws of the land or the law enforcing agencies, committed either by the villain and his party or by the hero/heroine.

Depiction of women

2.14 Commenting upon the depiction of women and about the justification of rape scenes being shown in films, the Ministry has stated that misuse of women on the screen, in themes of vendetta and rape, caught on the box-office in the late seventies. It was, however, asserted that it was now the endeavour of the Board to restrict scenes of rape in films to a mere suggestion, though scuh change of attitude could only be gradual in the light of what had been allowed in the past.

2.15 Commenting about the attitude of present day film producers the Ministry stated in its written notes to the Committee that the film industry,

or at least a part of it was in a sense 'sick'; there are no institutions like Prabhat Studios, Bombay Talkies etc. which took the responsibility for what they produced, for all times. Today, no producer is prepared to take such a responsibility. If any questions are asked of them after the release of their films, they often come up with the argument that they have sold the copy-rights to others. This evidently shows the on set of high degree of irresponsibility and non-accountability on the part of those producers. Films are being made on an ad-hoc basis and any theme that makes a hit draws other producers to duplicate it. Nothing is being done to check the rot in the society.

2.16 The Secretary Information and Broadcasting stated during evidence:—

> "There have been in the past persistent controversies and complaints about the manner in which this whole process of certification works. There has been a distinct school of thought and opinion in this country which feel that some vital social issues are not handled as well as they think they ought to be handled. I am referring to the status of women in this country."

2.17 The Chairman, Central Board of Film Certification, when asked to offer his views about the role of CBFC in achieving the objectives of film certification stated:—

> "The broad objective in not permitting certain portions of the films which are objectionable in terms of the guidelines is very limited. For instance, denigration, showing women in ignoble servility to man, glorified superstition, showing ghost stories etc. We want to stop them, but we are limited in our guidelines by Article 19(2) of the Constitution. This is the only force available to us for reasonable restriction on the freedom of expression."

2.18 The Chairman, CBFC further stated,

> "We have eleven areas in which we can object. It is in these areas that we can raise objections and this would be sustained in the highest court of law. We have also guidelines not ot permit obscuranrism, anti-rationalism or superstition, and they are deterring the film makers. But if they go to the court, our guidelines would be struck down. It does not draw power from Article 19(2). Our role, therefore, becomes very highly limited. We can only curb the undesirable."

2.19 Asked whether there is lack of uniformity in the application of guidelines, the Ministry of Information and Broadcasting has stated that the films are certified at seven Regional Centres of the Central Board of Film Certification. Though the same set of guidelines are followed by all the Advisory Panel Members in all the Regional Centres, it is difficult to achieve any high degree of uniformity in interpretation and application of guidelines.

2.20 When asked what was being done to achieve uniformity in the criteria of film certification the representative of the Ministry stated:—

"However, a systematic scheme is being drawn up by the Board to impart pre-Induction Training Course to all Panel Members. There is also a system of holding frequent work-shops for the panel members and cut-portions of various centres are shown in the workshops to give an idea of what has been deleted by other centres, so that they too should delete similar scenes."

(b) *Treatment of Foreign Films*

2.21 It has been represented to the Committee by some of the film producers' organisations that double standards were being applied by CBFC in certifying foreign and Indian films, it was contended by them this has deprived Indian films of their normal income as foreign films containing the very ingredients which are banned in Indian films are cleared by Censor.

2.22 It has also been contended that foreign films with suffocating violence and blood boiling sex are at large, over the entire nation, and even the NFDC could not resist lure of making a fast buck exploiting female nudity at a particular period of its functioning.

2.23 The Ministry of Information and Broadcasting, in a written note has stated that the imported foreign films have separate market and these did not compete with the Indian films. The films imported by NFDC are also subjected to the process of certification by CBFC under the Cinematograph Act, 1952. The Ministry however, admitted that the fact that foreign films were not being exhibited in the same form as certified by CBFC and that grossly obscene and. vulgar scenes were being added to the certified films before being screened at some places in the country. Even in certified imported films, it was possible that there is more violence in comparison to Indian films which may be due to the fact that one of the guidelines for certification says that "the Board shall ensure that the film is examined in the light of the contemporary standards of the country and the people to whom the film relates."

2.24 During evidence Chairman CBFC made following comments in regard to allegedly discriminatory application of guidelines in case of foreign films:

"We are using the same yardsticks for Indian films, as we are doing for foreign films. It has been one of the very big reliefs to our Indian producers, because they were saying that we were assessing their films keeping the Indian background in view, and it was not done in the case of foreign films. What we were telling them was about the

effect on the audience. But since the audience for both type of films was the same, from that angle, the yardstick should be the same."

(c) *Interpolations of films*

2.25 Explaining the reasons for the continued exhibition of violence, cruelty, horror and indecency in films, the Ministry of Information and Broadcasting has stated that the incidence of interpolation in certified films during their public exhibition has become rampant. Interpolation include restoration in reels the prints of portions that have been deleted by the Board before certification and inclusion of those portions of the films which were never shown to the Board for certification. The continued exhibition of such films to the public gives a wrong impression that censoring authorities have allowed patently objectionable portions of the film.

2.26 The Ministry has stated that the checks and penalties for violation of the orders of the Board in respect of certification of films are not adequate. This was explained by the Ministry by pointing out that the implementation of the Board's decisions during the exhibition of films rests with the State Govts. and Union Territory Administrations. However, the enforcement by the State authorities appears to be not effective. It was further stated that the Central Government have a proposal under the Eighth Five Year Plan to set-up an Enforcement Cell and a Legal Cell in the Board to monitor cases of certification violations during public exhibition. Government are also considering the feasibility of enlisting the services of Field Publicity Officers under the Central Directorate of Field Publicity to check censorship violations.

2.27 During evidence the Chairman, CBFC added:

"For all these interpolations, for action, we have to depend on the police force. I had sent a circular to all the S.Ps in the States in the month of June that as a policy we are not permitting details of rape scenes or gruesome violence in any films and if they see anything grossly obscene or gruesome violence, it could be safely presumed that it is an interpolation and that they could let us know. At every place there the certification is done, a certified edition is retained for comparison so that we can compare at a later date and prosecute the man, if necessary."

2.28 Asked to state the number of cases of violation which had come to the notice of CBFC during the last 5 years and whether any penalties were imposed in these cases, the Ministry has stated that during the last five years, as many as 64 cases of violations had come to the notice of the Board and the Central Government. The Board has not received information from the prosecuting authorities relating

to the nature and quantum of penalties imposed by the courts of law in each such case. However, in one case, four accused were fined Rs. 2000/- each.

2.29 Commenting upon the steps taken/proposed to be taken by the CBFC and the Government to curb interpolations in films, the Chairman, CBFC stated during evidence:

> "There are three possibilities. One is that the man should be prosecuted under the Cinematograph Act. The courts have ordered some Rs. 2000 or Rs. 1000 fine which is absolutely nothing for them. Second thing is that in the metropolitan cities the Commissioner of Police or the District magistrate can suspend the licence of exhibitor if interpolation is sensed. I have checked up in Madras. There was a law by which the exhibitor could be suspended but they have amended that law to say that the suspension order shall take effect from one month after the order of suspension and in that one month they obtain all kinds of Stay Order and all kinds of writs are filed. The third thing is that we can de-certify the film but it can also be done after we have issued a show-cause notice to the person concerned. I was recommending an amendment to it. We are recommending that the power to decertify the film should be given to the Chairman himself. If interpolation is proved, it should be sufficient reason for the Chairman to issue suspension orders. If that is done then this will be a very big deterrent for the interpolation."

2.30 The Chairman, CBFC further asserted:

> "Then a point was made that why only the producers should be prosecuted and why not the actors. I say that in most of interpolations, it is not only the producer, the director or the exhibitor that will have to be prosecuted but the actors also—especially in pornographic films—should be prosecuted. Regarding fine also Rs. 2000 or Rs. 1000 fine is nothing. We recommend that the minimum fine should be about Rs. 1 lakh and minimum imprisonment should be for three months."

2.31 In a written reply, the Ministry has stated that in its present form, the CBFC is not cut out to play any role either in detecting or in prosecuting interpolation, save conducting the verification of the seized print with the authorised version. The Cinematograph Act needs to be strengthened by giving powers to the Board Chairman to suspend certificates as soon as an interpolation in established. Simultaneously minimum punishment of fine as well as imprisonment need to be prescribed in the light of some convictions done by courts in which fines

of Rs. 1000/- or Rs. 2000/- have been imposed on proven cases of interpolation.

(d) *Video Piracy & Cable TV*

2.32 In a written note furnished to the Committee, it has been stated that the matter of videoboom and Cable TV is a problem relating to enforcement, which in turn is the responsibility of the police and that police is a State subject. The Ministry fully realise that absence of effective enforcement is frustrating what CBFC is at pains to do. But giving up even that attempt in their opinion, is not the answer.

2.33 Commenting upon the cassettes available in the market, the Chairman, CBFC stated, during oral evidence:

> "There is no tape in the market which does not contain advertisements and all that. To that extent, every tape that is going around in the market can be held up, can be locked up, can be seized. Barring some films which are imported, all other English film tapes that we have seen are illegal. It is making a mockery of the entire censorship business."

2.34 It has been represented to the Committee by some of the producers organisations that fewer producers were making profits due to video piracy helped by Cable TV. It has also been contended that rules are not clear regarding use of Antenna in cable TV circuits.

2.35 Asked to state the checks being applied by the Ministry in this direction, the Secretary, Ministry of Information and Broadcasting has stated during oral evidence:

> "We have to activate the implementing machinery of the State Governments and somehow or the other induce them to give much higher priority to this problem in day-to-day activities than they give today. The law probably could be made more stringent in terms of the manner in which films are to be produced so that there is a certain degree of deterrent available to the people who indulge in these things. This would help in the prevention of obscenity in the films. Then there is a problem of giving licences to video parlours, video library, making the copyright law infringement more strict. We have to go to the area of cable television. But there is a problem of video parlours unregistered, unmanaged growth of video parleys and video libraries".

2.36 Regarding the changes required in the existing laws and procedures after the introduction of cable TV. The Ministry stated during evidence,

> "There are a very large number of areas which open up now on account of so many factors where other laws do not permit this, because this Committee did not accept it, even if it accepts it accepts to a very limited extent. This has to be

dealt with partly by the Communications Ministry, partly as a law and order and partly by the I&B Ministry. Therefore, we have groups working on this today. For example, my Ministry has a group which is working on the Cable Television. There is also a group in the Cabinet Secretariat working on this. But we are dealing with a new animal. We have to do it fast. We need assistance only to highlight the importance of this area so that the Government as a whole gives it the required priority to it both in terms of finance made available to it and time being made available to it to deal with this matter."

(e) Consorship of Dubbed Versions of Films

2.37 It has been represented to the Committee by some of the producers' organisations that in case of censorship of dubbed films only sound was censored earlier whereas now the censorship of the entire picture was being insisted upon which had caused further miseries to the producers.

2.38 In this context the following announcement was made by the then Minister of Information and Broadcasting on 3rd August, 1982 in Lok Sabha:

"In order to ensure that uniform standards are applied while examining films dubbed in various languages, the Central Government, as appellate authority, has decided that there should be no censorship of the visuals in the case of dubbed films, provided the Censor Board is satisfied that the visuals of the dubbed versions are exactly the same as the visuals of the original certified versions. The Board will henceforth examine dubbed films in the light of this decision."

2.39 Justifying the stand being taken now-a-days by the Government in this regard, the Ministry of Information and Broadcasting, in a written reply furnished to the Committee, has stated that the procedure under the Cinematograph (Certification) Rules to be followed for examination and certification of dubbed versions is the same as for the original version. Neither the Act nor the rules provide for a different procedure for examination and certification of dubbed films. Furthermore it is not possible to have nay authentic method to prove that the dubbed version contained no interpolation. Apart from the practical difficulties to ensure that the dubbed version is identical to the original certified version, certification of visuals and audio part of the film cannot be done separately. Film is an audio visual medium. It is necessary to consider in totality the impact that the film creates as a result of combination of audio and visuals. Apart from these factors, the change of language can also bring the film into different regional language culture. This is likely to make some visual to be interpreted differently from the one that might have been taken in the original version whose language is different. It this process some visuals might become objectionable and there might be

violation of guidelines. If such visuals violate the guidelines and the Committees entrusted with the task of examination and certification of films ignore such violations because it is a dubbed version of an already certified film, it would amount to the committees not performing their statuory duties.

2.40 The Ministry of Information and Broadcasting *vide* their letter No. 802/2/91-F(c) dated January 8, 1991 have now decided that there should be no censorship of the visuals in the case of dubbed films, provided the Central Board of Film Certification is satisfied that the visuals of the dubbed versions are exactly the same as the visuals of the original certified version. The Board will work out the detailed procedure, if necessary, for the purpose, and submit the same to the Government for its approval.

Conclusion

2.41 Censorship is an inherrent part of certification of films and involves a value judgement. Cinematograph Act lays down the principles which ought to govern the act of film certification. Included in these principles are the maintenance of public order, decency and morality. The guidelines issued under the Act further clarify the objectives of film certification and these are to keep medium of films sensitive to the values and standards of society as existing, and as these are changing, besides maintaining an avenue for creative freedom and artistic expression.

2.42 The Ministry have admitted the possibility of foreign films depicting more violence in comparison to Indian films because guidelines issued by the Ministry indicate that films should be certified in the light of contemporary standards of the country and the people to whom it relates. The Committee is inclined to accept the view that audience for both the types of films are the same, yardstick for judging their exhibitability ought not be dissimilar. Obviously athe relevant guidelines need to be suitably modified.

2.43 The Ministry of Information and Broadcasting are aware of, and have admitted the exhibition, in films, of unjustified violence, cruelty, obscenity, depravity, alcoholism, drug-addiction, disrespect to judiciary and women besides other forms of crime. However, the Ministry as also the Board of Film Certification find themselves helpless in completely curbing exhibition of such scenes in films despite detailed guidelines and circulars issued to Board of Films Consorship and various Advisory Panels working thereunder. This state of affairs is largely due to rampant interpolation of films by irresponsible film producers and also due to the existence of video-piracy and cable TU circuits. The enforement of the conditions of certification rests with the Police authorities of a State/Union Territory. Given the preoccuption of Police with law and order problems, enforcement arrangements are, obviously, ineffective. The CBFC in its present form is not cut out to play any role either in detecting or in prosecuting cases of interpolation except for verifying the seized print with the authorised version. The Ministry are considering a number of measures such as setting

up of an Enforcement Cell in the CBFC to monitor violations of certificates during public exhibition of films and involving the officers of Central Directorate of Field Publicity to combat the melody of interpolation. The possible success of such measures notwithstanding, the real nub of the whole matter lies in the existing hiatus between the certification of films and their enforcement during exhibition. Violation, of the conditions of certification are also facilitated by the inadequacies of law and also of light punishment/ penalties provided thereunder. The CBFC as well as the Ministry are aware of these inadequacies which are best illustrated by the fact that of the 64 cases of violations which had come to the notice of the Central Government/ CBFC during the last 5 years information from prosecuting authorities about the nature and quantum of penalties imposed was available only in one case. Apparently the prosecuting agencies find it difficult to fix responsibility for interpolations in films inlcuding video films and circulation of pirated video film. In this context, the Committee find considerable merit in the suggestion that apart from the film producers, the director, exhibitor as well as the actors and actresses especially in regard to pornographic films, ought to be prosecuted.

2.44 It is evident that given the scale and nature of film certification violations, creation of an enforcement agency within the Board of Film Certification is an impracticable proposition. However, there is scope for making coordination with the State Police authorities more effectively particularly at the district level. At the same time the Committee believe that there is ample scope for making Cinematograph Act more stringent in regard to offences like interpolation and video piracy so that is can act as a sure deterrent against such violations. They also accept the need to delegate to Chairman, CBFC the powers to suspend certificates as soon as interpolation is established.

2.45 The Committee note that there is certain lack of uniformity in application of guidelines for certifying films at different regions. The Committee well appreciate that it is difficult to achieve a high degree of uniformity in interpretation and application of guidelines. In this context, they welcome the present practice of holding workshops where cut portions of various other regional centres of the CBFC are being shown to panel members as also the intention of the Ministry of Information and Broadcasting to impart training to all new members of various Advisory Panels attached to the regional centres of CBFC. The Committee, nevertheless hope that Ministry will remain alive to this problem and keep making efforts to contain its impact.

2.46 The Committee note that despite assurances before the Parliament made as early as in August, 1982 the Ministry have not abolished censorship in respect of dubbed films. This, the Committee were informed by various film producers organisations, that it caused considerable harassment to them. While Committee take a serious view of the recalcitrance shown by Ministry in this regard they also welcome the latest decision of the Ministry

to exempt visuals in the case of dubbed films from censership subject to these being similar to the regional version. The Committee hope that the decision will be implemented with due expedition.

Recommendations

2.47 (1) The existing guidelines regarding certificaiton of foreign films may be modified to ensure that like Indian films, foreign films are also certified in such a manner as to conform to contemporary social mores of the targetted audience.

(2) Suitable provisions may be incorporated in the Cinematographic Act as will make directors, technicians and exhibitors also actors/actresses responsibile liable for interpolation of scenes of vulgar depiction disallowed during certification or otherwise violative of guidelines issued under the Cinematograph Act.

(3) Coordination with State police authorities for effectively enforcing the conditions of certification of films under the Cinematograph Act may be taken up systematically and for this purpose interaction with State Police at district level may be taken up. If necessary officer complement in regional centres of CBFC may be suitably augmented.

(4) The power to suspend the certification issued by CBFC as soon as interpolation is established under Section 6 of Cinematograph Act may be delegated to Chairman, CBFC.

(5) The Cinematograph Act, 1918 may also be amended to provide stringent punishment for offences like interpolation of certified films and video piracy.

(6) All efforts including training of Advisory Panel members, may be made to achieve uniformity in application of guidelines after certification of films at verious regional centres of CBFC.

(7) The decision to exempt visuals in dubbed films from certification may be implemented expeditiously.

(8) Suitable measures may be taken to check the undesirable impact of Cable TV on social movies also the impact of this new phenomenon on national security may be studied in-depth so as to take all precautionary measures.

(9) The proliferation of unauthorized video-parlours and circulation of pirated or interpolated video cassets may be checked by making necessary changes in the statutes and by pursuading State Governments to tighten up administrative measures in this regard.

CHAPTER III

CBFC — STATUS, ORGANISATION & FUNCTIONS

A. Status

3.1 The Ministry of Information & Broadcasting in a written note stated that for administrative purposes, the Board functions as a subordinate office of that Ministry. In 1986 CBFC was taken out of the purview of the Information and Broadcasting and placed under Department of Culture in the Ministry of Human Resource Development. The position was reversed in 1990.

3.2 When asked as to why CBFC functioned under Ministry of Information & Broadcasting even though it related to field of education and culture, the Secretary, Information & Broadcasting stated:—

> "It used to be with the Department of Culture. Now, it has been shifted to Ministry of Information & Broadcasting, purely for an administrative convenience. It is much better housed if it is with the Ministry of Information & Broadcasting."

3.3 In a subsequent written note in this context, the Ministry informed the Committee that while the subject of certification of films was with the Ministry of Human Resource Development (Department of Culture), all other aspects of film medium were being dealt with by the Ministry of Information and Broadcasting. The subject or certification of films was therefore transferred back to the Ministry of Information and Broadcasting with a view to provide single window service to the industry.

3.4 The Ministry of Information and Broadcasting in another note stated that CBFC is a statutory body set up under the Cinematograph Act, 1952. However, Government of India, exercises control over CBFC in various manners as provided under Cinematograph Act, 1952. Some examples are as follows:—

(i) The Cinematograph Act Sections 3 and 5 empower the Central Government to appoint the Chairman, other members of the Board, members of the advisory panels at the regional centres and officers belonging to Group 'A'.

(ii) Central Government also has revisional powers under Section 6 of the Cinematograph Act, 1952. They can suspend or revoke the certificate issued by the Board to a film under Section 5 E of the Act, in the event of violation of the conditions of such certification.

3.5 When asked about the degree of autonomy enjoyed by Central Board of Film Certification, the Ministry of Information & Broadcasting in a written note has stated that there is total functional autonomy in the working of the panel members as well as members of the Board.

3.6 Asked whether subordination of the CBFC to the Ministry of Information & Broadcasting has any effect on its free functioning, the Chairman, CBFC stated during evidence:

> "The absolute subordination of the Board under a Government is creating handicaps in the functioning of the Board. This is a very important point. The people have a feeling that the Censor Board is a Government body. I am afraid, it is not exactly so."

B. Organisational Structure

3.7 The organisational structure of CBFC is based on the provisions of the Cinematograph Act, 1952 and the Cinematograph (Certification) Rules, 1983.

3.8 The Chairman has been declared by Government as the Head of Department. The headquarters of the Board are located at Bombay. There are at present 6 Regional Offices of the Board —Bombay, Calcutta, Madras, Bangalore, Trivandrum and Hyderabad. Each Regional Office is headed either by a Regional Officer or by an Additional Regional Officer in-charge of the office. The Regional Officer or the Additional Regional Officer incharge of the office is Head of Office. A chart showing the organisational set up of the CBFC is given in Annexure—1.

3.9 In reply to Unstarred Question No. 2624 dated 24.8.90 the then Minister of Information and Broadcasting informed Lok Sabha that Seventh Regional Office of the Board at New Delhi had also started functioning.

3.10 The Committee have been informed by the Ministry of Information and Broadcasting that the Administrative Officer is incharge of controlling budget and expenditure. He is also Drawing and Disbursing Officer at Bombay. However, the post of Administrative Officer is lying vacant. Therefore, Assistant R.Os at Bombay and Madras, R.Os. at Calcutta, Bangalore and Additional R.Os at Hyderabad and Trivandrum have been declared as DDOs.

3.11 The Chairman and members of the Board are appointed for a term of three years. It has been stated by Minister for Information and Broadcasting that the policy of the Government is to appoint on Board eminent persons from different walks of life such as social science, law, education, art, film production/direction, etc.

C. Appointment of the Chairman

3.12 The Estimates Committee in para 83 of their 2nd Report (Fourth Lok Sabha) had recommended that the Chairman of the Board of Film Censors should be an enlightened public figure possessing a cultural background and a judicial and artistic temperament. They, however, felt that the Chairman should also have a wide understanding of the movie medium and appreciation of the film as a medium of art. The Committee hoped that Government would lay down the basic qualifications for this post for future incumbents.

3.13 The working group on National Film Policy in paras 14.8 and 14.9 of their report had further recommended that Government must lay down clear guidelines for the appointment of the Chairman and members of the Censor Board, which should keep in view the broad qualifications recommended by the Khosla Committee.

3.14 Asked why the recommendations of the Working Group on National Film Policy have not been accepted by the Government, the Ministry of Information & Broadcasting in a written note furnished to the Committee stated that the recommendation of the Working group on National Film Policy to lay down guidelines for appointment of Chairman of the Central Board of Film Certification was not accepted by Government, as it was felt that it would not be correct to lay down rigid guidelines or qualifications for appointment of the Chairman and that the matter should be left to the discretion of Government to appoint the best person available as Chairman of the Board. According to procedure, the appointment is to be approved by a Cabinet Committee and Government will appoint only persons of eminence. The Ministry have argued that had there been any restrictive guidelines on the appointment of Chairman, Government would not have been able to appoint renowned film maker Shri Hrishikesh Mukherjee and distinguished film critic Shri Bikram Singh as Chairman and that the existing procedure had stood the test of time. The Ministry felt that there was therefore no case for prescribing any qualifications or guidelines for appointment of Chairman of the Central Board of Film Certification.

3.15 The Secretary, Ministry of Information and Broadcasting during the course of evidence admitted that there ought to be some kind of guideline though there was in a sense guideline available which was the Act itself and its objectives.

3.16 The Secretary, Ministry of Information and Broadcasting further asserted during evidence:—

> "After all, a certain function is to be performed which is detailed in the rules. You know what kind of persons you need. I also see that in a sense if you have guidelines, then, perhaps, in a cosmetic sense you seem to achieve certain kind of satisfaction."

3.17 In a written note furnished to the Committee, the Ministry of Information and Broadcasting has stated that presently the Chairman is a retired IPS Officer of the rank of Director General of Police.

3.18 Asked what qualifications were considered as necessary or desirable before appointing civil servants, police officials or any other Government servant as Chairman of the Board, the Ministry of Information and Broadcasting stated that censorship and related issues are matters of continuous, ever evolving and changing social and ethical mores. Therefore, no rigid quidelines or qualifications have been prescribed in the Cinematograph Act for appointment of Chairman.

Role of the Chairman

3.19 In terms of the Cinematograph (Certification) Rules, 1983, the Chairman has *inter alia* the following broad responsibilities for the smooth and efficient functioning of the Board:—

(i) To preside over and conduct the meetings of the Board.

(ii) To submit an annual report to the Central Government reviewing the work done by the Board during the preceding year, which will contain, among other things, a detailed analytical study of the trends in film industry.

(iii) To recommend to the Central Government names of persons suitable for appointment as members of the Advisory Panels.

(iv) To pass orders on the recommendation of the examining committee for each film.

(v) To constitute Revising Committees, where necessary.

(vi) To examine films in the Revising Committees, where necessary.

(vii) To pass orders on the recommendations of the Revising Committees.

(viii) To verify the positive and negative portions of films ordered for deletion, where necessary.

(ix) To transfer applications for certification of films from a particular regional office to another.

(x) To sign censor certificates.

(xi) To re-examine certified films on direction from the Central Government in the event of complaints and to forward his opinion to Government.

(xii) To inspect from time to time the regional offices and to monitor their working on a continuing basis.

(xiii) To correspond with the Film Certification Appellate Tribunal — in matters of appeals filed by applicants against the orders of the Board.

(xiv) To interact with film producers' organisations and with film importers' organisations.

(xv) To interact with the Central Government.

(xvi) To deal with the Press as the spokesman of the Board.

(xvii) To perform the duties of Head of Department under various administrative, congate and financial rules.

3.20 The Ministry of Information and Broadcasting has further stated that the workload of the Chairman of the Board is so onerous both in terms of nature and quantum that the incumbent of the post has to be a full-time officer.

3.21 The Committee have been informed that the post of Chairman, CBFC was being held by full time officers till 30.1.1981. Between 1981 and 1990 the post was held on part-time basis.

3.22 In this context, the Secretary, Information and Broadcasting explained the role of Chairman, CBFC as follows:

> "The Boaard is charged with the responsibility of sanctioning films suitable for public exhibition. The two main operations in this process relate to examination and certification. In the day-to-day functioning of the Board in these broad operational areas, the powers of the Board have been delegated by the Central Government to the Chairman."

D. *Appointment of Members of CBFC*

3.23 The Ministry of Information and Broadcasting has informed the Committee that persons qualified, in the opinion of the Central Government, to judge the effect of films on the films are appointed as members of the Central Board of Film Certification. They represent a cross-section of society. According to rule 3 of the Cinematograph (Certification) Rules, 1983, a member of the Board holds office during the pleasure of the Central Government. Subject to this provision, the term is for a period not exceeding 3 years. A retiring member is eligible for reappointment. The names of the existing members are given in Appendix.

3.24 in reply to USQ. No. 2624 dated 24.8.1990, the then, Minister of Information & broadcasting informed Lok Sabha that eminent persons from different walks of life such as social sciences, law, education, art, film production/direction etc. have been appointed as members of the Board. No special procedure as such has been prescribed for their selection.

3.25 Justifying the reasons for not prescribing any norms for appointment of the members, the Ministry of Information and broadcasting, in a written reply furnished to the Committee has stated that it would not be advisable to lay down any rigid guidelines or

qualifications. The Government should have full discretion to appoint the best persons available for appointment as members of the Board.

E. *Advisory Panels*

3.26 The Central Board of Film Certification in the discharge of their functions of certification of films for public exhibition is assisted by a number of Advisory Panels.

3.27 Explaining the constitution and role of Advisory Panels, the Chairman, CBFC stated during oral evidence:—

> "We have seven centres where regional officers are assisted by what are known as the advisory panel members who are eminent persons. We obtain their bio-data. They are very independent minded people like Secretaries of Lions Clubs and others—those who take part in social activities. They are all citizens drawn from a cross section of society. They could be part time journalists, doctors, engineers and others. They exercise their free will."

3.28 Clarifying further whether a Government servant could also be appointed as member of the Advisory Panels, the Ministry in a written reply informed the Committee that one of the Members of Hyderabad Advisory Panel of the Board was retired by the Government from the panel because it turned out that she was a Government officer. She filed a writ petition in Andhra Pradesh High Court against that order. The court upheld her contention and set aside the Government order.

3.29 It was pointed out to a Study Group of the Committee that some panel members remained unchanged on the Board for decades, the Ministry of Information and Broadcasting informed the Committee that the Advisory Panel members hold office for a period of two years and a retiring member is eligible for re-appointment.

3.30 It has been represented to the Committee that a lady from Rajasthan is a Member in the Regional Censor Board at Madras. Her mother tongue is not Tamil but she is responsible for censoring the Tamil films. It was further pointed out to the Committee that she could not be expected to censor the vulgarity of words which may be used in the films during the conversation.

3.31 Justifying the appointment of a member whose mother tongue is not the language of the film on the Advisory Panel the Chairman, CBFC stated during oral evidence:—

> "We do not limit our choice to people who know only that language. We have a composite group of people. But, every time there are enough people who know the language well so that these kinds of problems do not arise."

F. *Procedure of Examination of Films*

3.32 Explaining the procedure of examination of films, the Chairman, CBFC informed the Committee during oral evidence:—

> "One officer from CBFC and four members of Advisory Panel view the film. When they come to a conclusion that such and such cuts should be there and if the producer agrees to those revisions a certificate is given. Almost 75% of the cases have been dealt with at this level during the last 5 years. Wherever, the producer says it is too harsh, he asks for a Revising Committee. In that Committee comes the role of the members of the Board, where 7 or 8 panel members view that film and come up with their opinion. On the basis of a majority opinion, the verdict is given."

3.33 Commenting upon the steps taken by the Government in order to ascertain that there is no favour by the board officials in granting certificates of approval to the films, the Ministry of Information and Broadcasting has stated that the present procedure for examination of films by Examining Committees consisting of Members of the Advisory Panel and an Examining Officer precludes any scope for individual officers to favour any particular applicant. Members of the Panel are drawn from cross section of the society. They are not aware of the title of the film in advance. Only when they reach the theatre, where examination of the film is arranged, they come to know about the film under censorship. Moreover, Members of these Committees invariably take a decision before they leave the theatre in respect of each film they examine. Their finalised recommendations are given to the Board's official before they leave the theatre.

3.34 Asked whether the members and Chairman also hold meetings or attend screening at the regional centres of the board, the Ministry of Information and Broadcasting stated that members of the Board who are residents of the cities in which regional offices of the Board are located attend the Revising Committee meetings for examination of films. The term Member includes the Chairman. The rules however do not provide for association of the Members of the Board with the Examining Committee.

G. *Film Certification Appellate Tribunal*

3.35 The Film Certification Appellate Tribunal (FCAT) has been constituted under section 5D of the Cinematograph Act, 1952, for the purpose of hearing appeals against any order of the CBFC—

(a) refusing to grant a certificate; or

(b) granting only an 'A' certificate; or

(c) granting only an 'S' certificate; or

(d) granting only a 'US' certificate; or

(e) directing the applicant to carry out any excisions or modifications.

3.36 The Head Office of the Tribunal is at New Delhi and consists of a Chairman and not more than 4 other Members appointed by the Central Government. A retired Judge of a High Court or a person qualified to be a Judge of a High Court is eligible for appointment as Chairman of the Tribunal. Persons who, in the opinion of the Central Government, are qualified to judge the effect of films on the public are appointed as Members of the Tribunal.

3.37 The Tribunal may, after making such inquiry into the matter as it considers necessary and after giving the appellant and the Board an opportunity of being heard in the matter, make such order in relation to a film as it thinks fit and the Board shall dispose of the matter in conformity with such order.

3.38 The Ministry of Information and Broadcasting has furnished the following statement showing the number of cases in which the decision of the CBFC was modified by the Film Certification Appellate Tribunal during the last 5 years:-

Year	Total number of appeals registered	No. of appeals in which orders of the Board have been modified.
1985	16	13
1986	37	30
1987	62	35
1988	43	33
1989	48	41
Total	206	152

3.39 Commenting upon the large number of cases which have been modified by FCAT the Secretary, Ministry of Information and Broadcasting stated during evidence:-

"Modifications are really mostly in terms of the deletions that Board of Certification makes. May be the Board of Film Certification makes. May be the Board of Film Certification say that they will impose sixteen cuts. The Producer may go up to Appellate Tribunal. They may say instead of 16, 13 may do. This kind of modification they make."

3.40 In a post evidence reply furnished to the Committee, the Ministry of Information and Broadcasting has stated that modification by FCAT need not necessarily mean that the Examining Committee or Revising Committee arrives at wrong judgement and therefore, it does not mean that there is something wrong with the functioning of the Board. The Ministry further stated that periodical workshops of panel members are nevertheless being conducted, on a set programme and they hope that it shall be able to bring about a higher degree of uniformity in judgement while censoring films.

H. Status of Physical Assets

(a) Operational Vehicles

3.41 The Ministry has informed the Committee that the CBFC has neither land nor any building of is own and only and Staff Car is at its disposal at Bombay.

3.42 Asked how Organisation such CBFC, who has seven regional centres throughout the country apart from its headquarters at Bombay, is coping with just one staff car and that too at Bombay, the Ministry in a written note furnished to the Committee has stated that under the Plan Scheme the Board has continuing programme for creation/Strengthening of infrastructure facilities and Purchases of equipments for examining video films, purchasing of operational vehicles, purchase of electronic typewriters, purchase of telex machines, purchase of diesel jeep and car for Board's officer.

(b) Computerised Information System

3.43 The Ministry in a written note has stated:-

"The Board's offices have been maintaining various registers containing important information of a permanent nature. In addition, periodical statistical data are also prepared by various Regional Officers and these are presently manually compiled in the headquarters office at Bombay. The Board submits an Annual Report to the Central Government which contains among other things an analytical study of the trends in the Film Industry.

The need for streamlined system for collection, preservation and retrieval etc., of information/records in the offices of the Central Board of Film Certification had been felt for quite sometime. The maintenance of records and retrieval of information therefrom in the offices of the Board was not being done in a modernised manner, and there was need for a well articulated system for records management and information retrieval system. Records of the Board are required to be maintained permanently because they form part of film history."

3.44 Asked what kind of information/data are planned to be maintained on computer, the Ministry has stated in a written reply that some of the deleted portions from films which are surrendered to the Board's office are required to be arranged and compiled from time to time for purposes of screening to the members of the Board, members of the advisory panels, officers and others with a view to achieving as much uniformity in censorship of film as is humanly possible. It is necessary, therefore, to maintain a catalogue of such deleted portions from films. Censorship of films is not a static phenomenon but is an evolutionary process.

3.45 A lot of useful data and information is made for day to day operation, compilation of Annual Report of the Board, replies for Parliament question and information required for Consultative Committee meetings etc., but in the absence of streamlined and modernised information system, a lot of data and information available in the office of the Board is not meaningfully and gainfully used. Hence proper computerised information system would be possible to make management and disposal of the work of the Board still more efficient and quicker and also furnish promptly and inforamtion to the various organisations of the Government for the purpose of formulating policies regarding certification of films, import of raw stock etc.,

3.46 The Ministry has further informed the Committee that the computer has been purchased and the process is under way to make it fully oprational.

Conclusions

3.47 Central Board of Film Certification functions under the Ministry of Information and Broadcasting though from 1960 to 1989 it was placed under the Ministry of Human Resources Development (Department of Culture). In placing the Board again under the Ministry of Information and Broadcasting the Government were apparently guided by the fact that all other aspects of film medium were dealt with by the Ministry. This being the situation, the Committee are unable to understand the rational of taking the Board out of the Ministry of Information and Broadcasting in the first place. The Committee hope that the latest arrangements will have some finality to it. They would expect the Government to avoid any sort of adhocism in such matters. Doing so the Committee feel, would impair the efficiency and effectiveness of the Board.

3.48 The Minsitry have stated that the Board of Film Certification enjoys total functional autonomy while the Chairman, C.B.F.C. has informed the Committee that absolute subordination of the Board to the Government is creating handicaps in its functioning as much as there is a feeling that the Censor Board is a Government body. The Committee is inclined to take the view that under the present dispensation CBFC, even though on paper a statutory body and set up under a distinct legislation is vertually designed to function as an agency subordinate to the Government. In this contect the Committee take a particular note of the fact that under the law the Board can neither appoint the members of the Advisory panel at the regional centres nor its officers at group 'A' level. The Board also cannot suspend a certificate issued by itself to a film in the event of violation of the conditions to such certification. The Committee have come to the considered opinion that there is substantial need as also the scope for providing greater functional autonomy to C.B.F.C.

3.49 Various Committees including the Estimates Committee of Fourth Lok Sabha, the Khosla Committee and Working Group on National Film Policy have stressed upon the need to lay down clear guidelines for

appointment of Chairman and the members of the C.B.F.C. so as to involve men and women of appropriate background and aptitude for the task of film certification. The Ministry of Information and Broadcasting, however, feel that it would not be correct to lay down and rigid guidelines for such appointments and the matter ought to be left to the discretion of the Government. They further contended that past appointments would indicate that the existing method of appointing Chairman of the Board had stood the test of time and even if need for a set of guidelines could be accepted on a theoratical plane, these would have only a cosmetic value more so when censorship and related issues have become matters of continuous and ever evolving social and ethical mores. While the Committee is inclined to accept this view, they are nevertheless convinced about the need for Chairman and members being appointed from amongst public figure known for their interest and understanding of the film media.

3.50 The Committee also note that the responsibilities of the Chairman, C.B.F.C. are onerous and heavy and in this context they take a dim view of the fact that between 1981 and 1990 the post was held by various people only on a part-time-basis. Given the number of films produced in India and the dispersed organisational set up of C.B.F.C. and the magnitude of film certification violations, the Committee are of the firm opinion that in no circumstances the appointment of Chairman should be given to a person on part-time basis.

3.51 The Committee were informed by Film Producers organisation that some members of advisory panels at regional centres continue to remain on such panels beyond the prescribed period and in some cases did not even have the appropriate linguistic background. The Ministry have contended that a retiring member can be reappointed under the rules and that it was necessary to have a composite group of people on such panels, even though some of them may not know the language of the film under review. The Committee feel that the balance of advantage lays in avoiding reappointment of members on advisory panel and in having persons of appropriate linguistic knowledge on such panels.

3.52 The Ministry have explained to the Committee in some detail the procedure being followed by the Advisory Panel which examine films for the purpose of certification. The Committee are inclined to accept the argument of the Ministry that the present procedure precludes any scope for individual officers to favour any particular applicant. However, it is evident that the members and the Chairman of C.B.F.C. have virtually no direct role in the process of certification, as under the rule they have not associated with the examining Committees.

3.53 The decisions of the C.B.F.C. are subject to appeal before the Film certification Appellate Tribunal. That during the period from 1985 to 1989, a total of 206 appeals were made against such decisions and that in almost 74% of these cases the orders of the Board were modified by the Appellate

Tribunal, speaks adversely about the quality of judgement made by the Examining Committees or other such bodies functioning under C.B.F.C. In this context the necessity of having greater uniformity in application of guidelines for film certification as discussed in Chapter-II becomes all the more important.

3.54 The Committee note that the physical wherewithal provided to the Board is grossly inadequate keeping in view the magnitude and nature of the film industry which it has to deal with.

Recommendations

3.55(1) The Committee may be assured the CBFC will continue to be placed under the Ministry of Information and Broadcasting and that no further *ad hoc* changes will be made.

(2) The Central Board of Film Certification may be granted greater functional autonomy. If necessary suitable amendments to Cinematograph Act, 1918 may be considered.

(3) The CBFC may be given full powers to appoint members of the Advisory Panels at the Regional Centres as also the officers at Group 'A' level.

(4) The Chairman and the members of the CBFC may be appointed from amongst the public figures known for their cultural-eminence and understanding of the film media.

(5) The appointment of the Chairman should be on a full time basis.

(6) It may be ensured that members of the Advisory Panels are not reappointed after they complete their normal term. Care may also be taken that persons so appointed have sufficient and appropriate linguistic knowledge to enable them to discharge their responsibilities effectively.

New Delhi
February 14, 1992
Magha 25, 1913(S)

MANORANJAN BHAKTA,
Chairman,
Estimates Committee

Appendix I

ESTIMATES COMMITTEE
(1990-91)

CHAIRMAN

Shri Jaswant Singh

MEMBERS

2. Shri J.P. Agarwal
3. Shri Era Anbarasu
4. Shri Kamal Chaudhry
5. Shri Anantrao Deshmukh
6. Prof. Prem Kumar Dhumal
7. Shri Balvant Manver
8. Shri Hannan Mollah
9. Shri Arvind Netam
10. Dr. Debi Prosad Pal
11. Shri Rupchand Pal
12. Shri Harin Pathak
13. Shri Bhausahcb Pundlik Phundkar
14. Shri Vijay Kumara Raju
15. Shri Mullappally Ramachandran
16. Shri Y. Ramakrishna
17. Shri Rameshwar Prasad
18. Shri J. Chokka Rao
19. Shri Chiranji Lal Sharma
20. Shri Yamuna Prasad Shastri
21. Shri Khanraj Singh
22. Shri Subedar Prasad Singh
23. Shri Sukhendra Singh
24. Shri Tej Narain Singh
25. Shri Taslimuddin
26. Dr. Thambi Durai
27. Shri Nandu Thapa
28. Shri P.K. Thungon
*29. Shri K.C. Tyagi
30. Shri Kailash Nath Singh Yadav.

SECRETARIAT

1. Shri G.L. Batra—*Joint Secretary*
2. Shri B.B. Pandit—*Deputy Secretary*

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* Resigned w.e.f. 30.8.1990.

APPENDIX II

Statement of Recommendations / Observations

Sl. No.	Para No.	Recommendation / Observation
1	2	3
1	1.16(a)	To institute a comprehensive sociological study of film censorship in relation to emerging social realities.
2	1.16(b)	Urgent attention may be given to the recommendation of National Film Policy Group.
3	1.16(c)	The Ministry ought to formulate a clear and cogent policy in regard to 'Film Censorship' after taking into account the recommendations of the National Film Policy Group.
4	2.47(1)	The existing guidelines regarding certification of foreign films may be modified to ensure that like Indian films, foreign films are also certified in such a manner as to conform to contemporary social mores of the targetted audience.
5	2.47(2)	Suitable provisions may be incorporated in the Cinematographic Act as will make directors, technicians and exhibitors also actors / actress responsible liable for interpolation of scenes of vulgar depiction disallowed during certification or otherwise violative of guidelines issued under the Cinematograph Act.
6	2.47(3)	Coordination with State police authorities for effectively enforcing the conditions of certification of films under the Cinematograph Act may be taken up systematically and for this purpose interaction with State Police at district level may be taken up. If necessary officer complement in regional centres of CBFC may be suitably augmented.
7	2.47(4)	The power to suspend the certification issued by CBFC as soon as interpolation is established under Section 6 of Cinematograph Act may be delegated to Chairman, CBFC.

1	2	3
8	2.47(5)	The Cinematograph Act, 1918 may also be amended to proivde stringent punishment for offences like interpolation of certified films and video piracy.
9	2.47(6)	All efforts including training of Advisory Panel members, may be made to achieve uniformity in application of guidelines after certification of films at various regional centres of CBFC.
10	2.47(7)	The decision to exempt visuals in dubbed films from certification may be implemented expeditiously.
11.	2.47(8)	Suitable measures may be taken to check the undesirable impact of Cable TU on social movies also the impact of this new phenomenon on national security may be studied in-depth so as to take all precautionery measures.
12	2.47(9)	The proliferation of unauthorized video-parlours and circulation of pirated or interpolated video cassets may be checked by making necessary changes in the statutes and by pursuading State Governments to tighten up administrative measures in this regard.
13.	3.55(1)	The Committee may be assured the CBFC will continue to be placed under the Ministry of Information and Broadcasting and that no further *ad hoc* change will be made.
14	3.55(2)	The Central Board of Film Certification may be granted greater functional autonomy. If necessary suitable amendments to Cinematograph Act, 1918 may be considered.
15	3.55(3)	The CBFC may be given full powers to appoint members of the Advisory Panels at Regional Centres as also the officers at 'Group 'A' level.
16.	3.55(4)	The Chairman and the members of the CBFC may be appinted from amongst the public figures known for their cultural-eminence and understanding of the film media.
17	3.55(5)	The appointment of the Chairman should be on a full. time basis.

1	2	3
18	3.55(6)	It may be ensured that members of the Advisory Panels are not reappointed after they complete their normal term. Care may also be taken that persons so appointed have sufficient and appropriate linguistic knowledge to enable them to discharge their responsibilities effectively.

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